

C O P Y

in 60m

opinion

September 19, 1958

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Mr. Paul E. Farnum
Acting Commissioner of Education
State House Annex
Concord, New Hampshire

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CONCORD, N.H.

Dear Mr. Farnum:

In your letter of September 5, 1958 you solicited our opinion as to whether or not any of the unexpended balance of the funds paid to the State Treasurer by the school districts pursuant to RSA 194:12 may be used for the salary of a director in either the elementary or secondary field to operate out of the office of the State Department of Education and to work in the school districts of the State performing the same functions as are now performed by helping teachers.

As you know, RSA 194:12 requires that each school district shall annually pay to the State Treasurer as its share of the cost of statewide supervision, a per capita assessment of \$2.00 for each child residing in the district.

The statutory provisions with respect to helping teachers appear in RSA 186:11 XXII, XXIII (supp) and XXIV (supp). It is manifest from the language used in these three sections that the Legislature intended that persons employed as helping teachers would perform their duties within and for particular supervisory unions rather than throughout the State. For instance, it is to be noted in subsection XXIII (supp) the phrase "helping teachers for supervisory unions" appears twice; moreover under subsection XXII no helping teacher may be employed until after consultation with the local school boards in the supervisory union and nomination of a helping teacher by said school boards. Your attention is further directed to the last sentence of subsection XXIV (supp) which requires that helping teacher positions shall not be established until after concurrence by a majority of the school districts ". . . in the supervisory union . . ." representing not less than 85% of the total pupils in the supervisory union. From the foregoing it is our opinion that a director operating out of your office working in the school districts of the State "at large" is not a helping teacher as contemplated by the Legislature.

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Mr. Paul E. Farnum
Acting Commissioner of Education

-2-

9/19/58

Further significant language with respect to the question you have raised appears in RSA 186:11 XXIII (supp) which provides that the amounts received under the provisions of RSA 194:12 "... shall be maintained in a special fund by the state treasurer and be used for no other purpose than the salaries of superintendents, assistant superintendents and helping teachers for supervisory unions." (emphasis added) As we have concluded that a director operating out of your office is not a helping teacher for a supervisory union as contemplated by the Legislature, it follows from the restrictive language just quoted that none of the unexpended balance of funds received under RSA 194:12 may be used to pay all or any part of the salary of such director.

In brief, we are of the opinion that further legislation will be necessary before the funds could be used for such purpose.

Very truly yours,

CTR,Jr/m

George T. Ray, Jr.
Assistant Attorney General